

#### § 3108.4

#### 43 CFR Ch. II (10–1–99 Edition)

##### § 3108.4 Bona fide purchasers.

A lease or interest therein shall not be cancelled to the extent that such action adversely affects the title or interest of a bona fide purchaser even though such lease or interest, when held by a predecessor in title, may have been subject to cancellation. All purchasers shall be charged with constructive notice as to all pertinent regulations and all Bureau records pertaining to the lease and the lands covered by the lease. Prompt action shall be taken to dismiss as a party to any proceedings with respect to a violation by a predecessor of any provisions of the act, any person who shows the holding of an interest as a bona fide purchaser without having violated any provisions of the Act. No hearing shall be necessary upon such showing unless prima facie evidence is presented that the purchaser is not a bona fide purchaser.

[48 FR 33662, July 22, 1983; 48 FR 39225, Aug. 30, 1983, as amended at 53 FR 17357, May 16, 1988]

##### § 3108.5 Waiver or suspension of lease rights.

If, during any proceeding with respect to a violation of any provisions of the regulations in Groups 3000 and 3100 of this title or the act, a party thereto files a waiver of his/her rights under the lease to drill or to assign his/her lease interests, or if such rights are suspended by order of the Secretary pending a decision, payments of rentals and the running of time against the term of the lease involved shall be suspended as of the first day of the month following the filing of the waiver or the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver or suspension.

[53 FR 17357, May 16, 1988; 53 FR 22840, June 17, 1988]

#### Subpart 3109—Leasing Under Special Acts

##### § 3109.1 Rights-of-way.

###### § 3109.1–1 Generally.

The Act of May 21, 1930 (30 U.S.C. 301–306), authorizes either the leasing of oil

and gas deposits under railroad and other rights-of-way to the owner of the right-of-way or the entering of a compensatory royalty agreement with adjoining landowners. This authority shall be exercised only with respect to railroad rights-of-way and easements issued pursuant either to the Act of March 3, 1875 (43 U.S.C. 934 *et seq.*), or pursuant to earlier railroad right-of-way statutes, and with respect to rights-of-way and easements issued pursuant to the Act of March 3, 1891 (43 U.S.C. 946 *et seq.*). The oil and gas underlying any other right-of-way or easement is included within any oil and gas lease issued pursuant to the Act which covers the lands within the right-of-way, subject to the limitations on use of the surface, if any, set out in the statute under which, or permit by which, the right-of-way or easement was issued, and such oil and gas shall not be leased under the Act of May 21, 1930.

###### § 3109.1–2 Application.

No approved form is required for an application to lease lands in a right-of-way. Applications shall be filed in the proper BLM office. Such applications shall be filed by the owner of the right-of-way or by his/her transferee and be accompanied by a nonrefundable filing fee of \$75, and if filed by a transferee, by a duly executed transfer of the right to lease. The application shall detail the facts as to the ownership of the right-of-way, and of the transfer if the application is filed by a transferee; the development of oil or gas in adjacent or nearby lands, the location and depth of the wells, the production and the probability of drainage of the deposits in the right-of-way. A description by metes and bounds of the right-of-way is not required but each legal subdivision through which a portion of the right-of-way desired to be leased extends shall be described.

[53 FR 17357, May 16, 1988; 53 FR 22840, June 17, 1988]

###### § 3109.1–3 Notice.

After the Bureau of Land Management has determined that a lease of a right-of-way or any portion thereof is

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consistent with the public interest, either upon consideration of an application for lease or on its own motion, the authorized officer shall serve notice on the owner or lessee of the oil and gas rights of the adjoining lands. The adjoining land owner or lessee shall be allowed a reasonable time, as provided in the notice, within which to submit a bid for the amount or percent of compensatory royalty, the owner or lessee shall pay for the extraction of the oil and gas underlying the right-of-way through wells on such adjoining lands. The owner of the right-of-way shall be given the same time period to submit a bid for the lease.

### § 3109.1-4 Award of lease or compensatory royalty agreement.

Award of lease to the owner of the right-of-way, or a contract for the payment of compensatory royalty by the owner or lessee of the adjoining lands shall be made to the bidder whose offer is determined by the authorized officer to be to the best advantage of the United States, considering the amount of royalty to be received and the better development under the respective means of production and operation.

### § 3109.1-5 Compensatory royalty agreement or lease.

(a) The lease or compensatory royalty agreement shall be on a form approved by the Director.

(b) The royalty to be charged shall be fixed by the Bureau of Land Management in accordance with the provisions of § 3103.3 of this title, but shall not be less than 12½ percent.

(c) The term of the lease shall be for a period of not more than 20 years.

### § 3109.2 Units of the National Park System.

(a) Oil and gas leasing in units of the National Park System shall be governed by 43 CFR Group 3100 and all operations conducted on a lease or permit in such units shall be governed by 43 CFR parts 3160 and 3180.

(b) Any lease or permit respecting minerals in units of the National Park System shall be issued or renewed only with the consent of the Regional Director, National Park Service. Such consent shall only be granted upon a de-

termination by the Regional Director that the activity permitted under the lease or permit will not have significant adverse effect upon the resources or administration of the unit pursuant to the authorizing legislation of the unit. Any lease or permit issued shall be subject to such conditions as may be prescribed by the Regional Director to protect the surface and significant resources of the unit, to preserve their use for public recreation, and to the condition that site specific approval of any activity on the lease will only be given upon concurrence by the Regional Director. All lease applications received for reclamation withdrawn lands shall also be submitted to the Bureau of Reclamation for review.

(c) The units subject to the regulations in this part are those units of land and water which are shown on the following maps on file and available for public inspection in the office of the Director of the National Park Service and in the Superintendent's Office of each unit. The boundaries of these units may be revised by the Secretary as authorized in the Acts.

(1) Lake Mead National Recreation Area—The map identified as "boundary map, 8360-80013B, revised February 1986.

(2) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area—The map identified as "Proposed Whiskeytown-Shasta-Trinity National Recreation Area," numbered BOR-WST 1004, dated July 1963.

(3) Ross Lake and Lake Chelan National Recreation Areas—The map identified as "Proposed Management Units, North Cascades, Washington," numbered NP-CAS-7002, dated October 1967.

(4) Glen Canyon National Recreation Area—the map identified as "boundary map, Glen Canyon National Recreation Area," numbered GLC-91,006, dated August 1972.

(d) The following excepted units shall not be open to mineral leasing:

(1) *Lake Mead National Recreation Area.* (i) All waters of Lakes Mead and Mohave and all lands within 300 feet of those lakes measured horizontally from the shoreline at maximum surface elevation;